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STATE FOR ISN/CB, VCI/CCB, L/ACV, IO/S  
SECDEF FOR OSD/ISP  
JOINT STAFF FOR DD PMA-A FOR WTC  
COMMERCE FOR BIS (GOLDMAN)  
NSC FOR DICASAGRANDE  
WINPAC FOR WALTER

E.O. 12958: N/A

TAGS: [PARM](#) [PREL](#) [CWC](#)

SUBJECT: CHEMICAL WEAPONS CONVENTION (CWC): WRAP-UP FOR  
WEEK ENDING NOVEMBER 3

This is CWC-102-06.

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EXTENSION REQUEST INFORMATIONAL MEETING  
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¶1. (U) On October 31, EC Vice Chair Alexander Petri (Germany) chaired a discussion of requests for extension of the deadline for completion of destruction of 100% of Category 1 CW. The meeting was very widely attended across all regional groups, and had to be moved to the much larger Ieper Room as the attendees exceeded the capacity in the Ooms Room. Discussions were collegial and went along expected lines.

¶2. (U) Russia was clear in their initial statement and during later discussions they did not want to put any reference to visits into their decision language. They stated they were willing to consider visits, under certain conditions: the visits need a uniform criteria, they should be on a case-by-case basis, there should be sufficient grounds, there should be no automatic annual visits, the visits should not be funded from the OPCW budget, and they should not be a burden on the possessor states.

¶3. (U) The UK made clear several times that references to visits should be in the approval of the extension requests, while leaving the EC Chair to work out the specifics later. They also want the EC and CSP to reaffirm to possessor states the need to finish all destruction by April 29, 2012, indicating that if they do not, it could mean there is a problem with the Chemical Weapons Convention. They further noted that approval of the decisions would be the best way to formally enforce these deadlines.

¶4. (U) There were several expressions of concern regarding references to the U.S. national paper in the U.S. draft decision language preambular paragraphs 6-8, that destruction could go beyond 2012, and into 2017. Iran noted that this calls into question the legality of the extension request, and further noted its concern that the U.S. had been premature in its transparency. Amb. Javits informed delegations that under U.S. law, the Secretary of Defense must inform Congress of both the possibility of missing the Convention deadline and, through the budget process, the implications for out-year expenditures, all of which are

available in the public domain. He reminded delegations that there is no reference beyond 2012 in the actual draft decision language, and that the U.S. had in fact included preambular and operative language indicating this decision in no way relieved it of its obligations to complete destruction by 2012.

¶15. (U) Austria questioned whether it might be helpful to remove references to the extension request from the draft decision. Amb. Javits said the U.S. request incorporated language analogous to the extension requests of the other major possessors, and was concerned that removal of these references might imply the U.S. is amending its national paper. However, he would inform Washington of the views of the Austrian delegation.

¶16. (U) Germany questioned Russia's draft decision text on the reference to the need for international donations for their destruction program. Germany noted that language acceptable to all delegations had been agreed for the 45% extension request, and Russia should use this as a model for references to international assistance in this draft decision. After conferring, the Russian delegation indicated it could consider incorporating similar language. The Netherlands requested information from the Russians on when they anticipate reaching specific deadlines. The Russians responded to these questions by referring delegations to their upcoming presentation at the November 6 destruction informals.

¶17. (U) Discussion then focused on the visits aspect of the extension requests. The Netherlands began by pointing out that neither the U.S. nor Russian draft decisions put all the points from the UK non paper into their language, and asked

how we would address these discrepancies. The UK outlined their view that visits should be in the context of the verification annex (pushing back on Russia's implication that the UK was asking for "additional verification"), while allowing the EC Chair to decide the details. They stated visits would reinforce the need for the U.S. and Russia to redouble their efforts on destruction. The UK welcomed the U.S. proposal to conduct annual visits, and indicated they want similar language in the Russian decision. South Africa indicated their view that visits do not add anything to the process, saying that if the TS is doing their job well we should trust them and should not need to do visits of our own. Amb. Javits then invited delegations to share their views on what benefits they might expect from a visit. The Russians agreed with the U.S., saying they were open to visits but did not want a "pig in a poke." They want specifics.

¶18. (U) Canada, Iran, France, Germany, Switzerland, Kenya, India, Australia, Korea, Mexico, Pakistan, Ireland and China all intervened to express support for the concept of visits. Most delegations indicated visits should only pertain to the major possessors, the U.S. and Russia. They all noted the need to continue to look at the modalities of visits. They also said reference to visits should be in each of the decision documents. India reiterated that visits should only apply to the major possessors and not themselves. Mexico also suggested inviting independent experts along on the visits so someone who understand the issues at destruction sites would be there.

¶19. (U) Russia expressed their view that they would not put language regarding visits into their decision document, but noted their willingness to work on some other arrangement. They further noted that if delegations wanted more transparency, it must mean they do not trust their fellow member states, or that the CWC is not working (in particular, the verification regime). They felt that visits to just the U.S. and Russia was discrimination, and that this requirement should fall to all states requesting extensions.

¶10. (U) The U.S. noted that visits could be useful as less than a handful of people on the EC have ever gone to a

destruction facility. They could show the EC the enormity of the task ahead, give them the ability to assess what can be done and provide a better understanding of timeframes. Amb. Javits also noted that we have to be careful of details and have a measured process in place. Several delegations, most notably Iran, began discussing the need for further detailed discussion of site visits, and the fact that this is not a decision that should be taken in haste. Iran's implication was that the extension requests should not be considered until there is approval by all delegations of site visit parameters. Amb. Javits noted the focus should be on agreeing on the decisions themselves, and emphasized this should be achieved without becoming bogged down in the details of the visits. Russia expressed full support of that position. The UK reiterated that decision language does not have to cover all details regarding visits. A mention of the acceptance of the idea was sufficient. They also stressed that the primary concern should be agreeing on the two decisions, and that the details of site visits can be worked later.

¶11. (U) Amb. Petri suggested delegations ponder the points made in this meeting and reconvene later to further discuss the issue.

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ARTICLE VII  
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¶12. (U) Facilitator Maarten Lak (Netherlands) held a November 2 consultation on his proposed EC-47 report language, noting that only five states have yet to update their status with the Technical Secretariat (EIF 1997: Niger, Paraguay and Swaziland. EIF 2000: Eritrea. EIF 2003: Timor Leste). Iran, India, and South Africa noted that if the Follow On Plan was to be extended for another year, there was no need for additional elements such as tasking the Executive Council to

consult with implementing states. It would be better to task the Director General to consult with them. Delegations asked for consolidation and reorganization of the text, to better distinguish between EC report language and recommendations from the EC to the Conference.

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INDUSTRY CLUSTER: SCHEDULE 3 TRANSFERS  
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¶13. (U) The consultation on the transfer of Schedule 3 chemicals successfully ended in a decision and recommendation to refer this issue to EC-47. Del rep deployed guidance, specifying that the facilitator's editorial changes to the U.S. proposal were acceptable. The UK, Iran, and Germany all joined in stating their acceptance of the language and desire to refer it to the EC. A couple of misspellings were corrected in the text, as well. The facilitator will now transfer a clean version of the decision to the TS for preparation for EC-47. The group also expressed their thanks to the facilitator (Arya Sandeep of India) for his two years of effort on this issue. He will be leaving The Hague at the end of November.

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INDUSTRY CLUSTER: TRANSFER DISCREPANCIES  
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¶14. (U) The facilitator began by confirming the progress from the previous meeting - that the group would like the facilitators to prepare a draft decision document that would formalize the use of an absolute threshold (the declaration threshold from the Convention) as the trigger for transfer discrepancies that require followed-up. All agreed. However, Germany made a very confusing intervention, asking that the decision include both an absolute and a relative threshold. The facilitators and TS agreed to meet with the Germans bilaterally to sort through the details of their request.

¶15. (U) The facilitators introduced a non-paper entitled:

"Understanding on import and export data for (th)e AND declaration for Schedule 2 and 3 chemicals." This will be discussed in detail in a later meeting, but does include the definitions of import and export from the legislation of 63 States Parties, derived mostly from Trade questionnaire responses. The TS also made a presentation on a number of scenarios that result in transfer discrepancies. This resulted in a very complicated discussion about scenarios, how they were arrived at, recommendations for other scenarios, free trade zones, free ports, bonded warehouses, etc. For the next meeting, the facilitators agreed to accept new scenarios from SPs and incorporate them into a more focused presentation on the two options laid out in the non-paper.

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INDUSTRY CLUSTER: LOW CONCENTRATIONS FOR 2A/2A\* CHEMICALS  
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¶16. (U) The facilitator (Steve Wade, UK) made his last attempt to drive through his proposal on this issue. Germany made it clear that they are still not happy with the current proposal, and asked that, if any drafts were to be referred back to the EC with the facilitator's report, that they include all options the Legal Advisor has cleared -- the current facilitator's draft and the October 2005 draft. Del rep deployed guidance and supported sending this back to the EC. Canada, the UK, and Switzerland all expressed discouragement at this failure, stating their concern that there will be "quantities of PFIB much above the verification threshold that are not being verified", a point del rep still fails to understand, as the same happens under Schedules 2B and 3. (Del rep questioned the Canadian delegate about this afterward, and he did not have a response.) Switzerland said their impression from industry is that they desire that a concentration be set, whatever it might be, to level the playing field, and the UK pointed out that CEFIC (the European chemical association) made just this point during

the universality conference in Rome. China does not have final guidance yet, but they expect to be able to support the current proposal. India continues to desire a flat one-percent level for all three chemicals.

¶17. (U) Based on the outcome of the meeting, the facilitator will prepare a report for EC-47. With Wade taking a position within the TS very soon, the loss of a facilitator is likely to leave this issue fallow for some time.

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INDUSTRY CLUSTER: OCPF SITE SELECTION METHODOLOGY  
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¶18. (U) Facilitator Luis Garcia (Spain) held two consultations (30 October and 2 November) on his proposed methodology. The first focused on unresolved issues, fine-tuning the presentation. Delegations agreed that the proposal should not specifically mention the A14 methodology for the TS component, preferring generic language instead. This would allow the TS to change its algorithm without first seeking EC or CSP approval. The discussion got off topic, debating on whether the EC ever formally approved the use of the A14 algorithm (no) and/or whether it should be formally approved (Iran: yes, others disagreed).

¶19. (U) The discussion then moved to whether the facility's A14 value should be included on the anonymous list as one of the descriptive elements. The Netherlands, Germany, France, Italy, Japan and India all said no. Switzerland, Canada, Australia, the UK and the U.S. indicated flexibility, and supported including it as a indicative piece of information regarding the facility's relevance to the CWC.

¶20. (U) Garcia then asked whether it should be compulsory for all SPs to make selections, and if not, what should be the minimum participation necessary to include the SP component in the selection methodology. Japan noted that one way forward would be to distribute the points of a SP that

chooses not to make selections equally over all OCPFs. This proposal was supported by India and Iran. Iran worried that not all regional groups might be represented in such a small number of selections. The UK, supported by Germany, raised concerns that if enough states did not make selections, that the SP component would never be included. Perhaps set the minimum level of participation at 40 states, and if that was not reached, distribute the "missing" points equally across all OCPFs.

¶21. (U) The U.S. noted that there needed to be a balance: states with small National Authorities might need to be reassured that they would not need to make annual selections, that their selections would remain in force until revised. If so, more states might be willing to make selections. Canada, supported by Italy, made a strong statement, noting that every state is equally entitled to make (or not make) selections; no state should have its points distributed on its behalf. Canada also noted that it would be unprecedented and unacceptable to impose regional group restrictions; all member states are alike. Australia noted that the minimum participation should be low, say 25 states. Finally China noted that the easier the methodology is to understand, the more states will participate.

¶22. (U) On November 2, the facilitator presented a draft decision with the proposed methodology included as an annex. India noted that elements of the decision, in particular the dates of implementation, were impractical and should be removed. India, supported by Germany, noted its preference for a three vice four-year trial period.

¶23. (U) New Zealand, supported by Australia, the UK, Canada, China, Switzerland, and the U.S., noted its preference for a simple prose-based decision, one that would preclude the need for the over four page long annex with mathematical symbols. New Zealand noted that bureaucrats and diplomats find equations difficult to comprehend and will make reaching consensus quickly difficult. It would be far preferable to use prose to explain the methodology. The facilitator

disagreed, noting that the math is easily accessible to everyone and is needed to ensure the methodology is implemented accurately.

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INDUSTRY CLUSTER: LATE SUBMISSION OF DECLARATIONS  
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¶24. (U) The facilitator (Denyer, U.S.) received a formal legal opinion from the TS Legal Advisor on the concept of "nil declarations" on November 1. This document, together with a facilitator's draft decision to implement "nil declarations" was the basis for the November 3 consultation.

¶25. (U) It should be noted that Canada, along with several other delegations, originally asked for the decision to include a provision whereby previous Schedule 3 declarations would be treated similarly to OCPF declarations -- that is, the TS would assume that previously declarations would continue valid until such time that a new declaration were received. This would have given the TS some data for verification planning purposes. However, the LAO informed the facilitator that para 3 of Part IX of the Verification Annex allowed the TS to implement this practice for OCPF declarations, whereas no such language exists for Schedule 3. It was their opinion that, to do something like this for Schedule 3, an amendment to the CWC would be needed. As such, that language was removed from the draft decision before the November 3 consultation. If further investigation lends an appropriate way forward on this, it could be reinserted later.

¶26. (U) The November 3 afternoon consultation was lightly attended, presumably because of the scattered scheduling of industry cluster meetings throughout the week. Delegations were generally supportive of the "nil declarations" decision but needed more time to get formal responses from capital.

New Zealand and others expressed concern that this be implemented in a way to place the least burden possible on small NAs. Switzerland and others reaffirmed that the burden on NAs is in the gathering of data to determine whether declarable activities exist, not in the preparation of the declaration. France suggested that no new form was needed to implement "nils", but this rather could be done through a simple cover letter from the NA. Australia suggested that the TS reminders to NAs could provide simple details on submitting a "nil declaration."

¶27. (U) Javits sends.  
ARNALL